

STATEMENT OF JOHN S. KERN, DEPUTY ASSOCIATE ADMINISTRATOR
FOR REGULATION AND CERTIFICATION, FEDERAL AVIATION
ADMINISTRATION, BEFORE THE HOUSE COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION, SUBCOMMITTEE ON AVIATION,
CONCERNING ANTI-SMOKING REGULATIONS.
JUNE 22, 1989.

Mr. Chairman and Members of the Subcommittee:

I welcome the opportunity to appear before you today to discuss our experience to date with the anti-smoking and tampering with smoke detector provisions enacted by Congress in December 1987.

At the outset, Mr. Chairman, I am well aware that the Subcommittee is considering several bills, including your own, to make permanent and or expand the scope of the current smoking ban. I am sure you are aware that the Office of the Secretary of Transportation (OST) has a study underway to measure the levels of contaminants in airline cabins. The OST Study is a follow-up to the February 1987 National Academy of Sciences study, which recommended the implementation of a data collection program that measured airflow and contamination in airplanes.

The OST study will identify the type and level of contaminants created by smoking aboard aircraft and will provide further information on the degree of health risk associated with exposure to such contaminants. Other pollutants are also being

measured. Based on these measurements and other relevant epidemiological evidence, OST will perform an assessment of risk to passengers and flight attendants. We think the OST study is important, for as you know, Mr. Chairman, the cabin environment in an airliner at 30,000 feet is different from a normal ground based environment.

Enactment of Public Law 100-202, the fiscal year 1988 Department of Transportation appropriations bill, amended Title IV of the Federal Aviation Act of 1958 by adding new requirements which prohibited the smoking of tobacco products on scheduled airline flights of two hours or less and established a civil penalty of up to \$2,000 for tampering with, disabling, or destroying any smoke alarm device aboard aircraft engaged in air transportation.

The Congressional mandate directed the Secretary of Transportation to promulgate regulations. This, in turn, was delegated to the FAA. The Smoking Aboard Aircraft rule was issued April 11, 1988. The ban went into effect on April 23, 1988 for a period not to exceed two years. The anti-tampering provision went into effect immediately and has no expiration date.

The final rule required that the "No Smoking" sign be turned on at all times on scheduled airline flights which are scheduled for two hours or less in duration; prohibited smoking in aircraft lavatories at all times, and required airlines to post placards in lavatories stating "Federal law provides for a penalty of up to \$2,000 for tampering with the smoke detector installed in this lavatory." The rule also requires that preflight passenger briefings include more detailed instructions on smoking, smoking prohibitions, and the statutory ban on tampering with smoke alarms in aircraft lavatories.

At that time we also issued an action notice concerning our revised regulations on smoking aboard aircraft. The notice provided guidance to our aviation safety inspectors on the application of the new smoking regulations. In addition, the action notice directed our inspector workforce to ensure that each air carrier amend the appropriate manuals and training courses to incorporate the provisions of the new requirements.

Our experience to date with these requirements indicate a high degree of compliance by the affected air carriers. By in large airline passengers have also overwhelmingly complied with these provisions. There have been instances of noncompliance. During the past year there were over 100 reports of alleged violations. A summary of those violations has been provided to the Subcommittee staff.

Since implementing the rule, there have been several reports of tampering with smoke detectors. The safety problems posed by a malfunctioning or purposely disconnected smoke detector have the potential for disaster. As a result, on May 3, our Flight Standards Service issued an Action Notice to Air Carrier Principal Maintenance Inspectors to conduct a 30-day survey of Part 121 carriers to obtain additional information on smoke detector installation. The results of our survey are currently being analyzed and further changes may be necessary.

Mr. Chairman, that concludes my prepared statement and I would be pleased to answer any questions you or other Members of the Subcommittee may have.